



USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: 2/1/08  
DATE FILED: 2/1/08

**MEMO ENDORSED**

STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

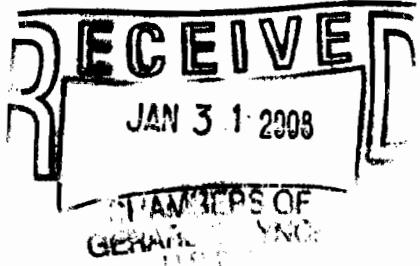
ANDREW M. CUOMO  
Attorney General

CRIMINAL DIVISION  
FEDERAL HABEAS CORPUS SECTION

(212) 416-6173

January 31, 2008

Hon. Gerard E. Lynch  
United States District Judge  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, New York 10007-1312



Re: Boutte v. Poole, 07-CV-08412 (GEL)

Your Honor:

I am an Assistant Attorney General in the office of Andrew M. Cuomo, Attorney General of the State of New York, attorney for respondent in the above-referenced matter. This letter is to request a second enlargement of time to April 30, 2008, on consent, to respond to the petition. The reason for this request ]\* is that I do not have the transcript of petitioner's second trial.

By Order dated September 27, 2007, Your Honor directed that respondent file a response to the petition along with the state court record by November 5, 2007. The Clerk's Office served that Order and a copy of the petition on my office in an envelope postmarked October 30, 2007. This matter was assigned to me on November 2, 2007. By Order dated November 19, 2007, Your Honor granted respondent's first request for an extension of time until January 31, 2008 to respond to the petition. On November 5, 2007, my office requested the trial transcript. On December 24, 2007, we received the transcript of petitioner's first trial where a mistrial was declared, but not a transcript of petitioner's second trial. We are actively attempting to get a copy of the trial transcript from petitioner's second trial. Without the this transcript, I cannot adequately respond to the petition.

*Gerard E. Lynch*  
\*SO ORDERED  
GERARD E. LYNCH, U.S.D.J.

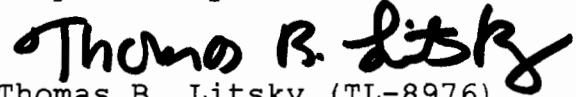
Hon. Gerard E. Lynch  
January 31, 2008  
Page 2

For this reason, I respectfully request an enlargement of time to April 30, 2008, to file a response to the petition. I have spoken to Michael H. Sporn, Esq., counsel for petitioner, who consents to respondent's second request for an enlargement of time.

Although respondent is requesting an enlargement to April 30, 2008 to file a response, if a response can be filed earlier, it will be.

Thank you for your consideration.

Respectfully submitted,

  
Thomas B. Litsky (TL-8976)  
Assistant Attorney General  
120 Broadway  
New York, NY 10271

cc: Michael H. Sporn, Esq.  
Law Office of Michael H. Sporn  
299 Broadway, Suite 800  
New York, NY 10007